The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SB 934

INTRODUCER: Senator Hukill

SUBJECT: Property Tax Exemptions

DATE: January 12, 2018 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	**Pre-meeting**
2.			AFT	
3.			AP	

I. Summary:

SB 934 increases the existing ad valorem tax exemption for Florida residents who are widows, widowers, blind, or totally and permanently disabled from $500 to $5,000.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or "property tax" is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.[1] The property appraiser annually determines the "just value"[2] of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property's "taxable value."[3] Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

[1] Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

[2] Property must be valued at "just value" for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm's-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

[3] *See* s. 192.001(2) and (16), F.S.

The Florida Constitution prohibits the state from levying ad valorem taxes[4] and limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.[5]

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;[6] however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that receive classified use treatment in Florida include agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes;[7] land used for conservation purposes;[8] historic properties when authorized by the county or municipality;[9] and certain working waterfront property.[10]

Exemption for Widows, Widowers, Blind, and Totally and Permanently Disabled

Since its 1968 revision, the Florida Constitution has provided a specific exemption to "every widow or widower or person who is blind or totally and permanently disabled, property to the value fixed by general law not less than five hundred dollars."[11] This exemption is effectuated in s. 196.202, F.S., for every person who is a bona fide resident of this state. An applicant for the exemption may apply for the exemption before receiving the necessary documentation from the United States Department of Veterans Affairs or its predecessor, or the Social Security Administration.[12] Upon receipt of the documentation, the exemption shall be granted as of the date of the original application, and any excess taxes paid shall be refunded.[13]

III. Effect of Proposed Changes:

Section 1 amends s. 196.202, F.S., to increase the ad valorem tax exemption for Florida residents who are widows, widowers, blind, or totally and permanently disabled from $500 to $5,000.

Section 2 specifies that the increased exemption applies to tax years beginning on or after January 1, 2019.

Section 3 provides that the act shall take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, Subsection (b) of section 18 of the State Constitution, provides that except upon the approval of each house of the Legislature by a two-thirds vote of the

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[4] FLA. CONST. art. VII, s. 1(a).
[5] *See* FLA. CONST. art. VII, s. 4.
[6] Section 193.011(2), F.S.
[7] FLA. CONST. art. VII, s. 4(a).
[8] FLA. CONST. art. VII, s. 4(b).
[9] FLA. CONST. art. VII, s. 4(e).
[10] FLA. CONST. art. VII, s. 4(j).
[11] FLA. CONST. art VII, s. 3(b).
[12] Section 196.202(2), F.S.
[13] *Id.*

membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandate requirements do not apply to laws having an insignificant impact, which for Fiscal Year 2017-2018 is approximately $2 million or less.[14,15,16]

The county/municipality mandates provision of Art. VII, S. 18 of the Florida Constitution may apply because this bill reduces local government authority to raise revenue by reducing ad valorem tax bases compared to the tax bases that would exist under current law. This bill does not appear to qualify under any exemption or exception. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference estimates that the bill will have a total negative fiscal impact of $37.8 million in 2018-2019; $38.4 million in 2019-2020; $39 million in 2020-2021; $39.6 million 2021-2022; and $40.1 million in 2022-2023.[17] Specifically, the Revenue Estimating Conference estimates a negative fiscal impact on school revenues of $16 million in 2018-2019; $16.3 million in 2019-2020; $16.5 million in 2021; $16.8 million in 2021-2022; and $17 million in 2022-2023.[18]

B. Private Sector Impact:

Florida residents who are widows, widowers, blind, or totally and permanently disabled will pay less property tax.

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[14] FLA. CONST. art. VII, s. 18(d).

[15] An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times $0.10. *See* Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf (last visited Dec. 19, 2017).

[16] Based on the Demographic Estimating Conference's population estimate adopted on December 5, 2017. The conference packet is available at http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf.

[17] Revenue Estimating Conference, 2018 HB 727/SB 934, pp. 179-185, http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2018/_pdf/Impact1208.pdf (Analyzed Dec. 8, 2017).

[18] *Id.*

C. Government Sector Impact:

The bill may reduce the tax base upon which counties and municipalities raise ad valorem revenue.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 196.202 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.